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ABSTRACT

Little research has examined the process by which parents decide about the custody of their children during divorce. Data were obtained from divorcing couples with minor children: 40 couples had decided that sole custody would go to the mother (traditional); 7 couples had decided on joint custody, and 1 couple had decided on split custody (nontraditional). Subjects participated in structured interviews and completed questionnaires regarding the nature and importance of the criteria that had influenced their custody decisions. Demographic information about the couples submitted to a one-way analysis of variance by custody type revealed no significant differences between the groups in age, education, number of children, and income while married. More often in nontraditional custody decisions, the wife was more interested in obtaining the divorce than the husband and the post-divorce financial resources were greater. The results on decision-making suggested that couples choosing different custody arrangements used slightly different criteria. Parents who decided on traditional mother custody were most concerned about parental responsibility, the quality of the parent-child relationship, the emotional stability of the parent, the parent's desire for custody, and parenting skills. Parents who decided on nontraditional custody arrangements gave less emphasis to responsibility functions and more emphasis to the importance of parent's values and lifestyle being suited to childrearing. (NRB)

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Decisions About Child Custody: A Comparison of Traditional and Nontraditional Outcome

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Abstract

The present study examined differences between couples who agreed to traditional mother custody and couples who agreed to joint or split custody as the post-divorce arrangement for their children. Differences emerged in the social context of the decision process, the criteria used, and the application of criteria to subjects' particular circumstances. The findings are incorporated into a proposed model for the process by which parents make their decision about custody.

Decisions About Child Custody: A Comparison of Traditional and Nontraditional Outcome

Although a fair amount of research examining the effects of divorce on children has appeared in the literature (Hetherington, 1979; Kurdek, 1981; Wallerstein & Kelly, 1980), very little research has examined the process by which parents decide about the custody of their children during divorce. This is somewhat surprising since that decision has lasting implications for the lives and relationships of all parties involved (Hess & Camara, 1979; Hetherington, Cox, & Cox, 1978).

A few studies have examined different kinds of custody arrangements (DeFrain & Eirick, 1981; Ilfeld, Ilfeld, & Alexander, 1982; Luepnitz, 1982; Santrock & Warshak, 1979; Steinman, 1981). These studies have mostly looked at various kinds of "outcome" measures: children's adjustment in paternal custody compared to maternal custody, children's adjustment under joint custody compared to sole custody, parents' adjustment in maternal custody compared to paternal custody, and relitigation rates under joint custody compared to sole custody. Generally, these studies have found a modest preference for joint custody over either form of sole custody in terms of children's adjustment and relitigation rates but have found fathers to do as well as mothers in childrearing under sole custody. Virtually no research has been done on the two most rare forms of custody: split custody, where each parent receives sole custody of one or more of the children, and divided custody, where

each parent is the legal custodian for specified time periods. Although the emerging research indicates that at least two atypical custody arrangements (paternal custody, joint custody) are as beneficial or better for children's post-divorce adjustment, almost no research has been done on how parents decide what form of custody will be best for their children.

The legal history of custody probably largely accounts for the lack of research on the decision process. Prior to the adoption of the "best interests of the child" criterion by most states in the 1970's, a maternal presumption had been in effect by law in most states for over 40 years (Derdeyn, 1976). That is, it was assumed that the children belonged in the care of their mother unless she was demonstrably unfit or unable to function as a responsible parent. The criterion for custody was both relatively clear and presumably a statement of the values of society. The decision process took the form of a normative decision rule (Janis & Mann, 1977), a single criterion that carries the weight of a moral imperative.

By 1974, the values of society had changed and the experience of the courts dictated a revision of the criterion for custody. The "best interests" of the child was promulgated by the American Bar Association and by 1980, had been adopted by 47 of the 50 states (Harris, 1980). The best interests criterion has not gone without criticism. Many states have little elaboration of what constitutes a child's best interests. The Michigan statute considered something

of a model version, elaborates ten criteria but several of these are open to diverse interpretation, the last criteria allows the judge broad latitude, and no indication is given of the relative importance of the criteria (Committee on the Family, 1980). The expected change toward diversity in custody arrangements has not occurred, except in a few states which have adopted joint custody as the preferred disposition (Schulman, 1982). Maternal sole custody is still the pervasively dominant type of custody agreed upon by parents and confirmed by the courts.

In spite of the increased latitude accorded parents in recent years, only one study has examined the criteria used by them in deciding custody. Marschall and Gatz (1975) surveyed members of Parents Without Partners a median time of three years after the divorce. They identified five dimensions which parents reported had influenced their decision: continuity in the child's environment, keeping young children with the mother, the child's interpersonal relationships, each parent's moral character, and each parent's ability to supervise and provide for the child. Although this study offered a framework for understanding the custody decision process for parents, there were a number of methodological limitations on the data, the most serious being the retrospective nature of the study and a sample that included only one party in a two-party decision.

In order to study the custody decision process, two methodological characteristics are essential. First. the data must be collected

at the time of the decision so that intervening experience with the outcome of the decision does not bias the results. For example, Marschall and Gatz noted differences in responses from custodial and noncustodial parents. Second, both parties to the decision must be sampled. The sample for the Marschall and Gatz study consisted only of subjects who reported having a mutually agreed decision on custody; yet, differences emerged as a function of the post-divorce parental role.

One major problem facing researchers in this area is the uniformity of the decision outcome. As described previously, maternal sole custody is the dominant outcome. A pressing question continues to be what differentiates couples who avail themselves of the recent greater flexibility in the law and those who choose the traditional pattern of custody. Most professionals who have written on the subject favor the best interests criterion over the maternal presumption (Committee on the Family, 1980; Everett & Volgy, 1983; Gardner, 1982). It remains to be seen whether the continuing prevalence of maternal custody reflects the best interests of most children in most families, as viewed by some judges (Settle & Lowery, 1982) or whether couples follow a normative prescription described by Russo (1979) as the "motherhood mandate" independent of the particular features of their relative strengths and weaknesses as parents. Comparison of traditional custody families, who choose sole custody to the mother with visitation for the father, with nontraditional custody families, who select joint or split custody,

should elucidate both the extent to which parents see themselves as attending primarily to the welfare of their children and under what conditions the welfare of the children leads to the selection of a nontraditional custody arrangement.

Method

Divorcing couples with minor children were identified from court records and contacted by phone or letter. Only couples where both parties agreed to participate were included in the study. In the final sample of 55 couples, seven couples had not reached a final decision on custody at the time of the data collection. Forty couples had decided that sole custody would go to the mother (traditional); seven couples had decided on joint custody and one couple on split custody (nontraditional). Among couples who had decided, the distribution of traditional and nontraditional arrangements were similar to the proportions observed in states that do not have a statutory preference for joint custody (Glick, 1979). Additional data in the nontraditional group were provided by four couples[1] (from the pilot sample for the project) who chose joint custody.

Couples were contacted within six months of filing for divorce. Each subject participated in a structured, individual interview regarding the nature and importance of the criteria that had influenced their decision. Each parent then also filled out two questionnaires. The first asked them to rate the importance of twenty criteria in deciding custody. The criteria had been

identified from the divorce literature and included considerations described in the law and in psychological research as relevant to the welfare of children in divorce. They included such things as continuity in the child's environment, the emotional stability of the parent, and the preference of the child. Development of the questionnaire has been described previously (Lowery, 1981; Lowery, in press-a; Lowery, in press-b). The second questionnaire asked them to rate the extent to which each of the twenty considerations favored the mother or the father in their situation to have custody. Finally, subjects returned by mail a questionnaire, asking them about persons they consulted in deciding custody, completed after the final court hearing on the divorce.

Results[2]

Demographic information about the couples was submitted to a one-way analysis of variance by custody type (traditional, nontraditional). The analysis revealed few differences. There were no differences in average age, length of marriage, number or age of children, level of education, or level of income while married. Some differences did emerge. By subjects' report, the couples deciding on nontraditional custody were separated for a longer period of time ($\bar{X}$ = 129 days) before filing the divorce petition than couples who chose traditional custody ($\bar{X}$ = 74 days) (F (1, 84) = 7.15, $p < .01$. There was not a significant difference in the amount of time separated as reported in the divorce petition. A second difference was in the level of income at the time of the

interview (an average of 147 days after filing the petition). Using a figure that is independent of child support paid or received, traditional subjects tended to have a lower mean monthly income ($\bar{X}$ = $1059) than nontraditional subjects ($\bar{X}$ = $1497 ($F$ (1, 90) = 2.97, p = .09. The subject groups also differed on who had wanted the divorce (χ^2 = 7.47, p = .02), with a larger proportion of the nontraditional custody couples reporting that the wife had wanted the divorce. However, there was no significant difference between the two groups in proportion of petitions filed either by the wife or the husband or filed jointly. Also, nontraditional custody couples were more likely to reach a decision later in the divorce process (χ^2 = 10.66, p = .01).

The delay in the decision for nontraditional custody couples is consistent with the results of the questionnaire returned by mail. These responses indicated that the nontraditional subjects discussed their decision more often with their partner (F (1, 58 = 13.89, p < .01) and their attorney (F (1, 40) = 2.80, p = .10). They also tended to be more likely to consult a counselor (F (1, 13) 3.00, p = .11).

The items rating the importance of the twenty criteria were submitted to a multivariate analysis of variance (MANOVA) using type of custody and gender as between-subjects variables. Type of custody showed a marginally significant main effect (Hotelling's T = .632, approximate F (20, 50) = 1.58, p < .10). Neither subject gender nor the interaction showed a significant effect. Univariate

analyses of variance showed only two items having a difference in the rating of importance. Nontraditional custody subjects rated the parent's sense of responsibility to the child (F (1, 97) = 6.89, p = .01) and the parent's ability to provide for the child financially (F (1, 97) = 4.67, p = .03) as less important than traditional custody subjects rated these two considerations (see Table 1).

The hierarchy of items should be noted. Traditional custody parents assigned the greatest importance to parental responsibility followed by the quality of the parent-child relationship, the parent's emotional stability, the parent's desire for custody, and parenting skills. Nontraditional custody parents were largely in agreement on the order of importance, with the exception of the parental responsibility consideration.

The data from the questionnaire asking subjects to indicate the extent to which each of the twenty considerations favored the mother or the father to have custody were also submitted to MANOVA, using subject gender and custody type as between-subject variables. Subject gender had a significant main effect (Hotelling's T = .736, approximate F (20, 59) = 1.64, p = .07). Custody type had a marginally significant main effect (Hotelling's T = .557, approximate F (20, 59) = 1.64, p = .07). The interaction effect was not significant.

The univariate analyses of the effects of gender showed that, for all but three items (placing a child with the parent of the same

sex, keeping a child with the mother, and the parent's ability to provide access to a good school) parents rated themselves as better potential custodians than they were rated to be by their partners.

The univariate analysis of variance by custody type showed significant differences on six of the items and a trend towards a difference on one additional item (see Table 2). The pattern in the table is clear; both parents in nontraditional custody agreements rated the father in a more favorable light than parents with traditional arrangements.

Discussion

Perhaps one of the most interesting findings of this study is that couples who decide on nontraditional custody arrangements are demographically more similar to couples who make a traditional decision than they are different. Age, education, number of children, and income while married do not seem to make a difference. Two differences observed in this study are quite striking: more often with nontraditional custody, the wife was more interested in obtaining the divorce than the husband and the post-divorce financial resources were greater. It should be noted that there was no difference in child support between the two groups. Thus, the difference is largely due to the earning capacity of the nontraditional custody mothers. It would seem that, at least for these couples, a mother who sees divorce as a desirable outcome and her access to financial resources make a difference. Approximately 80% of the mothers in the sample were working at the

time of the interview, at least part-time. The difference, then, seems to be access to an adequate income, one that allows the woman to be relatively independent of her husband for basic financial security.

There was no difference between the two groups in hours worked outside the home. The facilitation of nontraditional custody seems to be more purely a financial condition rather than one related to time available for the provision of child care and supervision. That is, the traditional custody mothers were no more available to their children than the nontraditional custody mothers because of fewer hours working outside the home. More available time has been one consideration raised for awarding custody to mothers. Given the dramatic recent increase in the proportion of women in the work force, this consideration was not reflected in the lifestyles of this sample. Custodial mothers had no more time available for childrearing than did the joint custody mothers.

The results of the background information introduce a note of caution about the use of court records for the study of divorce and custody. On two important variables (who wanted the divorce and how long the couple had been separated before filing), information in the court file did not coincide with subjects' reports of their experience.

The ratings on the first questionnaire give some insight into the psychological characteristics of parents who agree on joint custody, compared to couples who make a traditional decision. The

criterion that is most important to couples who decide on mother custody is parental responsibility. As defined in the questionnaire, this quality referred primarily to maintenance functions required of parents: attending to nutrition, clothing, and medical care. Parents with nontraditional custody rated this consideration lower in their hierarchy of determining factors.

The only other consideration on which the two groups differed on importance was the ability to provide for the children financially. This most likely was the result of the difference mentioned previously in the two groups' post-divorce income. Nontraditional couples reported more financial resources, making financial concerns a less important factor in their decision.

Information from the interview indicated that, on the average, parents reported about five considerations in forming their opinion (Lowery, in press-b). This is consistent with Miller's (1956) report of human capacity to manage 7 ± 2 relevant categories simultaneously. In identifying a model for custody decisions, a first step is to identify the approximately five considerations that will determine the decision. The results from this study suggest couples that make different decisions use slightly different criteria.

Using Miller's cutoff of five criteria, parents who decide on mother custody are most concerned about parental responsibility, the quality of the parent-child relationship, the emotional stability of the parent, the parent's desire for custody, and

parenting skills. Parents who decide on nontraditional custody arrangements give less emphasis to responsibility functions and, dropping down to their fifth rated criterion, more emphasis to the parent's values and lifestyle being suited to childrearing.

The results of the second questionnaire shed additional light on the decision process. The favorability ratings show nontraditional parents rating two of their five most important criteria as being more equally balanced between the two parents than traditional custody parents. Although much lower in rated importance, five additional criteria were rated more equally favorable between the parents by nontraditional custody parents than by mother custody parents. It should be noted that only one item was rated by the total sample below the neutral midpoint as favoring the father and that consideration addressed financial resources.

Keeping in mind that fathers rated themselves as more suitable custodians on all but three criteria than they were rated to be by the mothers, and that there was no interaction effect for gender by custody type, it follows that a necessary condition for an agreed joint custody arrangement (or in one instance split custody) is a perception shared by both parents that the father is an active and involved parent in several areas of the children's lives. It should be noted that the direction of differences on the favorability item was consistently in the direction of joint custody parents

perceiving the consideration as relatively more favorable to the father as a custodian than mother custody parents' perceptions.

Combining the information from the data in the study suggests a two-part model for custody decisions. The first part involves the selection of criteria that are relevant to the decision, assuming thaat the best interest of the children is the ultimate goal. Parents who make nontraditional arrangements differ slightly in the criteria they use, assuming they focus on approximately the five they consider most important. The second part of the model involves the outcome of the application of those criteria. Traditional custody mothers see themselves as significantly superior to the father on all of the five most important criteria; on two, the fathers confirm that preference although not to the same degree. Nontraditional custody parents acknowledge more of the father's contribution to the parenting effort and agree on a custody arrangement that confirms his parental role.

Some limitations of the study, and suggestions for future research, should be noted. Although the data were collected close to the time of the decision, they are still retrospective, from a sample of people who were in the process of adjusting to many changes resulting from the divorce. Data collected across the span of the divorce process, much of which occurs before the petition is filed, would help correct for retrospective biases that may enter into parents' descriptions of their decision.

In this study, no behavioral or behavioral report data were collected on the actual participation of fathers in parenting. Such data would help determine whether the differences between the two types of couples was based on differences between fathers' behaviors or whether some other factor, such as the degree of the mother's desire to get the divorce or her anticipated post-divorce lifestyle, influences the perception of the father as an involved parent.

A final point seems in order. Setting aside the item on the maternal preference which had a gender bias built into the wording of the item, the criterion that most favored the mother among traditional custody parents was her desire to have custody. After separating out the nontraditional parents' ratings, the parent's deisre for custody was rated to favor the mother more than any other consideration by traditional custody parents. Although the purpose of the study was not directly to evaluate the adequacy of the model used by parents for making decisions about their children relative to the standard of the children's best interests, it is of some concern that the parent's desire for custody is rated so highly in importance and so unilaterally is assessed as a preference for the mother. The "motherhood mandate" again rears its head. Obviously it would make little sense to place children in the care of a parent who did not give priority to and derive satisfaction from functioning in that role. However, the history of continuing paternal involvement with children after

divorce with traditional custody arrangements is rather bleak (Albrecht, 1980; Hetherington, Cox, & Cox, 1976; Wallerstein & Kelly, 1980). It would be unfortunate indeed if social pressure on mothers to insist on sole custody in order to protect their self-esteem and image in the community (Garrett-Fulks & Worell, 1983) functioned as the overriding factor in most parents' custody decisions. It is interesting to note that, even though nontraditional custody parents rated the parent's desire for custody as relatively high in importance, they assessed their situation as one in which both parents were equally motivated to have custody of the children. It would appear, then, that the father's history of involvement with the children, the intensity of his desire for custody at the time of the divorce, the mother's desire to have the divorce, and her financial resources after the separation are key variables that make a difference in agreed custody arrangements.

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Footnotes

[1]The addition of data from the pilot sample was necessary to allow valid statistical analysis. Some minor recoding of the data was necessary to accommodate changes in the format and order of items. Among the 12 pilot couples and 55 final couples, none had chosen sole paternal custody. The responses of the one couple who chose split custody were submitted to preliminary analysis and identified as not discrepant from the joint custody couples. This seems logical in that both of these forms of custody acknowledge the parental rights and competencies of both parents.

[2]Other aspects of the project have been previously reported in the literature (Lowery, 1984; Lowery, in press-b).

Table 1

Importance Ratings of Custody Criteria.[1, 2]

Item	M	SD	p
1. The parent's sense of responsibility to the child (making sure the child is eating properly, is dressed properly, gets medical attention when needed).	10.40	1.59	.01
Traditional	10.62	1.26	
Nontraditional	9.62	2.33	
2. The emotional quality of the relationship between the child and the parent (e.g., trust, warmth, and affection that are mutual).	10.37	1.22	
3. The parent being reasonably stable, mentally and emotionally.	10.24	1.56	
4. Whether the parent wants to have custody.	10.11	1.91	
5. The parent's parenting skills (e.g., has reasonable expectations of the child, knows how to handle misbehavior, encourages the development of the child's talents and abilities).	10.02	1.45	

(table continues)

Item	M	SD	p
6. The parent's moral character or lifestyle being suitable for raising a child.	9.92	1.88	
7. The amount of time the parent would spend with the child if he/she did receive custody.	9.92	1.84	
8. The parent's willingness to maintain a reasonably good relationship with the other parent (e.g., discussing decisions related to the child, not trying to turn the child against the other parent).	9.87	1.93	
9. The parent's proper use of alcohol or drugs.	9.51	2.79	
10. The amount of time the parent would spend with the child if he/she did not receive custody (availability for visitation).	9.46	2.04	
11. The wishes or preference of the child (e.g., does the child usually prefer being with one parent over the other).	9.38	1.77	

(table continues)

Item	M	SD	p
12. The parent's ability to provide for the child financially.	9.06	1.76	.03
Traditional	9.27	1.76	
Nontraditional	8.32	2.06	
13. The parent's reluctance to get into a legal battle over custody (e.g., willingness to work out an agreement about custody and visitation with the other parent).	8.80	2.85	
14. Physical health of the parent (the absence of any disease or physical condition that would interfere with the parent taking care of the child).	8.65	2.68	
15. The parent's ability and willingness to provide contact with the child's other relatives.	8.65	2.75	
16. The parent's willingness to continue the child's religious or moral training.	8.62	2.59	
17. The parent's ability to provide stable continuing involvement in the same neighborhood (e.g., same home, same school).	8.24	2.84	

(table continues)

Item	M	SD	p
18. The parent's ability to provide access to a good school (not necessarily the same one the child has been attending).	8.23	3.03	
19. Keeping a child with the mother, because she is the mother.	5.45	3.19	
20. Placing a child with the parent of the same sex.	3.57	2.67	

[1]Items were rated on an 11-point Likert-type scale where 1 = Of little importance and 11 = Highly important.

[2]Following a significant MANOVA, items were submitted to univariate analysis of variance comparing traditional and nontraditional custody arrangements.

Table 2

Relative Favorability Ratings for Having Custody.[1]

Item[2]	M	SD	p[3]
1. Parental responsibility	7.23	2.39	
2. Parent-child relationship	6.90	2.69	
3. Parental emotional stability	6.67	2.46	
4. Parent's desire to have custody	7.41	2.82	.01
Traditional	7.79	2.80	
Nontraditional	6.04	2.48	
5. Parenting skills	7.02	2.46	
6. Parent's moral character/lifestyle	6.61	2.62	.06
Traditional	6.87	2.66	
Nontraditional	5.68	2.28	
7. Time available if custodian	6.76	2.64	
8. Parent-parent relationship	6.43	2.17	
9. Parent's use of alcohol/drugs	6.15	1.62	
10. Time available for visitation	6.03	2.20	
11. Child's preference	6.84	2.42	.02
Traditional	7.14	2.33	
Nontraditional	5.77	2.51	
12. Financial resources	5.05	2.80	
13. Avoidance of legal conflict	6.50	2.28	
14. Parent's physical health	6.15	1.62	
15. Access to relatives	6.43	2.33	

(table continues)

Item[2]	M	SD	p[3]
16. Religious/moral training	6.96	2.48	.01
Traditional	7.29	2.34	
Nontraditional	5.77	2.64	
17. Continuity in the child's environment	7.02	2.97	.01
Traditional	7.44	2.97	
Nontraditional	5.50	2.46	
18. Access to education	6.68	2.31	.02
Traditional	6.98	2.38	
Nontraditional	5.64	1.73	
19. Maternal preference	7.98	2.35	.02
Tranditional	8.29	2.20	
Nontraditional	6.62	2.79	
20. Same sex custodian	6.30	2.19	

[1]Ratings were made on an 11-point, Likert-type scale where 1 = Highly favorable for the father and 11 = Highly favorable for the mother.

[2]Item wording has been abbreviated for this table. For exact item wording, see Table 1.

[3]Following a significant MANOVA, items were submitted to univariate analysis of variance.